

## **EXHIBIT C**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
  
CHARLESTON DIVISION**

IN RE: ETHICON, INC.,  
PELVIC REPAIR SYSTEM  
PRODUCTS LIABILITY LITIGATION

MDL NO. 2327

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THIS DOCUMENT RELATES TO ALL CASES

**PRETRIAL ORDER # 4**

(Initial Hearing Summary - Counsel Structure, Procedural and Discovery Issues and Future  
Status Conferences)

An initial case management conference was held on April 13, 2012, by Judges Joseph R. Goodwin and Mary E. Stanley. Substantive matters that were addressed are summarized below.

**A. Plaintiffs' Counsel Structure**

Some counsel for the plaintiffs submitted to the court a proposed counsel organizational structure in accordance with paragraph 3 of PTO #1. The proposal, the memorandum in support and all of the individual applications for appointment to the plaintiffs' steering committee were reviewed by the court. After carefully considering the matter and finding no objection, the court **APPOINTED** the following attorneys as part of the plaintiffs' counsel structure:

**1. Coordinating Co-Lead Counsel for the Plaintiffs**

Bryan F. Aylstock  
Aylstock Witkin Kreis & Overholtz, PLLC  
17 E. Main St. Ste. 200  
Pensacola, FL 32502  
850-202-1010 phone  
850-916-7449 fax  
[baylstock@awkolaw.com](mailto:baylstock@awkolaw.com)

Henry G. Garrard, III  
Blasingame, Burch, Garrard & Ashley, P.C.  
440 College Avenue, Suite 320  
Athens, GA 30601  
706-354-4000 phone  
706-549-3545 fax  
[hgg@bbgbalaw.com](mailto:hgg@bbgbalaw.com)

Fred Thompson, III  
Motley Rice LLC  
P.O. Box 1792  
Mt. Pleasant, SC 29464  
843-216-9118 phone  
843-216-9450 fax  
[ftompson@motleyrice.com](mailto:ftompson@motleyrice.com)

It shall be the responsibility of Coordinating Co-Lead Counsel to work across MDL lines in conjunction with the Executive Committee named below to determine which attorneys are best suited to handle a given task, be it common corporate discovery, expert identification, deposition preparation, motions practice and brief drafting, trial teams and other similar matters that develop as this litigation progresses. Coordinating Co-Lead Counsel will also determine when separate groups from the PSC named below should be designated to work on MDL specific issues that do not cross MDL lines. Coordinating Co-Lead Counsel in conjunction with the Executive Committee will be responsible for coordinating the efforts of the members of the PSC.

## **2. Plaintiffs' Executive Committee**

Bryan F. Aylstock (see contact information above)  
Henry G. Garrard, III (see contact information above)  
Fred Thompson, III (see contact information above)

Thomas P. Cartmell  
Wagstaff & Cartmell, LLP  
4740 Grand Avenue, Suite 300  
Kansas City, MO 64112  
816-701-1100 phone  
816-531-2372 fax  
[tcartmell@wagstaffcartmell.com](mailto:tcartmell@wagstaffcartmell.com)

Clayton A. Clark  
Clark, Love & Hutson, G.P.  
440 Louisiana Street, Suite 1600  
Houston, TX 77002  
713-757-1400 phone  
713-759-1217 fax  
[cclark@triallawfirm.com](mailto:cclark@triallawfirm.com)

Amy Eskin  
Hersh & Hersh  
601 Van Ness Avenue, Suite 2080  
San Francisco, CA 94102-6388  
415-441-5544 phone  
415-441-7586 fax  
[aeskin@hershlaw.com](mailto:aeskin@hershlaw.com)

Derek H. Potts  
The Potts Law Firm, LLP  
908 Broadway, 3<sup>rd</sup> Floor  
Kansas City, Missouri 64105  
816-931-2230 phone  
816-931-7030 fax  
[dpotts@potts-law.com](mailto:dpotts@potts-law.com)

Aimee H. Wagstaff  
Andrus, Hood & Wagstaff, PC  
1999 Broadway, Suite 4150  
Denver, CO 80202  
303-376-6360 phone  
303-376-6361 fax  
[Aimee.wagstaff@ahw-law.com](mailto:Aimee.wagstaff@ahw-law.com)

It will be the responsibility of the Executive Committee to work in conjunction with Coordinating Co-Lead Counsel to perform the duties outlined above.

### **3. Plaintiffs' Steering Committee (PSC)**

The proposed counsel organizational structure submitted to the court recommended a singular PSC to coordinate across MDL lines in the four separate pelvic mesh MDLs before this court. All of the applications for appointment to the PSC were carefully reviewed and considered by the court. No objections were received by the court as to the appointment of any proposed applicant or nominee. The attorneys listed on the attachment to this PTO are **APPOINTED** to the PSC.

The PSC will have the responsibilities enumerated in PTO #1. The appointment of the PSC is of a personal nature. Accordingly, the above appointees cannot be substituted by other attorneys, including members of the appointee's law firm, to perform the PSC's exclusive functions, such as committee meetings and court appearances, except with prior approval of the court.

### **4. Plaintiffs' Co- Lead Counsel MDL 2327**

Recommendations were received by the court for the position of Plaintiffs' Co-Lead Counsel in MDL 2327. After review of the submitted application materials and discussion at the initial hearing, the following attorneys were **APPOINTED** as Plaintiffs' Co-Lead Counsel in MDL 2327:

Thomas Cartmell (see contact information above)

Renee Baggett  
Aylstock Witkin Kreis & Overholtz, PLLC  
17 E. Main St. Ste. 200  
Pensacola, FL 32502  
850-202-1010 phone  
850-916-7449 fax  
[RBaggett@awkolaw.com](mailto:RBaggett@awkolaw.com)

The Plaintiffs' Co-Lead Counsel shall have the following responsibilities in this MDL:

1. Act as spokesperson for all plaintiffs at pretrial proceedings and in response to any inquiries by the court, subject to the right of any plaintiff's counsel to present non-repetitive individual or different positions as long as the presentation does not unduly delay the proceedings.
2. Submit and argue any verbal or written motions presented to the court or magistrate judge on behalf of the plaintiffs as well as oppose, when necessary, any motions submitted by the defendants which involve matters within the sphere of the responsibilities of Lead Counsel.
3. Examine witnesses and introduce evidence at hearings on behalf of plaintiffs.
4. Negotiate and enter into stipulations with defendants regarding this litigation. All stipulations entered into by Lead Counsel, except for strictly administrative details such as scheduling, must be submitted for court approval and will not be binding until the court has ratified the stipulation. Any attorney not in agreement with a non-administrative stipulation shall file with the court a written objection thereto within ten (10) days after service by liaison counsel of the stipulation. Failure to object within the term allowed shall be deemed a waiver and the stipulation will automatically be binding on that party.

5. Explore, develop and pursue all settlement options pertaining to any claim or portion thereof of any case filed in this litigation.
6. Perform such other functions as may be expressly authorized by further orders of this court.

#### **5. Plaintiffs' Co-Liaison Counsel**

Recommendations were received by the court for the position of Plaintiffs' Co-Liaison Counsel. After review of the submitted application materials and discussion at the initial hearing, the following attorneys were **APPOINTED** as Plaintiffs' Co-Liaison Counsel:

Harry Bell  
The Bell Law Firm PLLC  
30 Capitol Street  
P.O. Box 1723  
Charleston, WV 25326-1723  
304-345-1700 phone  
304-345-1715 fax  
[hfbell@belllaw.com](mailto:hfbell@belllaw.com)

Paul T. Farrell, Jr.  
Greene, Ketchum, Bailey, Walker, Farrell & Tweel  
419 11<sup>th</sup> Street  
P.O. Box 2389  
Huntington, WV 25724-2389  
304-525-9115 phone  
304-529-3284 fax  
[paul@greeneketchum.com](mailto:paul@greeneketchum.com)

Carl N. Frankovitch  
Frankovitch, Anetakis, Colantonio & Simon  
337 Penco Road  
Weirton, WV 26062  
304-723-4400 phone  
604-723-5892 fax  
[carln@facslaw.com](mailto:carln@facslaw.com)

The responsibilities of Plaintiffs' Co-Liaison Counsel shall be the following:

1. to receive and distribute pleadings, orders and motions for pro se parties;
2. to coordinate service and filings;
3. to periodically review the attorney service list on the court's website, promptly communicate necessary revisions to the Clerk and effectuate required revisions in accordance with direction from the Clerk;
4. to receive and distribute pleadings, orders, and motions by overnight courier service and telecopier within two days after receipt, unless such service has been waived, in writing, by a receiving counsel **or is otherwise achieved through CM/ECF** ;
5. to establish and maintain a document depository, real or virtual, to be available to all plaintiffs counsel;
6. to maintain and make available to all plaintiffs counsel of record at reasonable hours a complete file of all documents served by or upon each party (except such documents as may be available at a document depository); and
7. to carry out such other duties as the court may order.

**B. Defendant's Lead and Liaison Counsel**

**1. Lead Counsel**

Having received a recommendation for defendant's lead counsel and discussed the same at the initial conference, Ms. Christy Jones was **APPOINTED** as lead counsel for defendant



Ethicon, Inc. in MDL 2327.

Christy D. Jones  
Butler, Snow, O'Mara, Stevens & Cannada, PLLC  
1020 Highland Colony Parkway  
Suite 1400  
Ridgeland, MS 39157  
601-948-5711 phone  
601-985-4500 fax  
[Christy.jones@butlersnow.com](mailto:Christy.jones@butlersnow.com)

Lead Counsel for the defendant shall have the following responsibilities:

1. To determine (after consultation with the defendant) and present (in brief, oral argument or such other fashion as may be appropriate, personally or by a designee) to the court and opposing parties the position of the defendant on all matters arising during these pretrial proceedings;
2. To delegate the specific tasks in a manner to ensure pretrial preparation for the defendant is conducted effectively, efficiently and economically;
3. To negotiate and enter into stipulations with the plaintiffs on behalf of the defendant;
4. To act as the spokesperson to explore and develop settlement options pertaining to the cases filed against the defendant; and
5. To perform such other duties as may be incidental to proper coordination of the defendant's pretrial activities or authorized by further order of the court.

## 2. Defendants' Co-Liaison Counsel

Recommendations were received by counsel for the defendants for the position of Defendants' Liaison Counsel. After review of the submitted application materials and discussion at the initial hearing, the following attorneys were **APPOINTED** as Defendants' Co-Liaison Counsel along with Mark Williams who was previously appointed in MDL 2187 *In re C.R. Bard, Inc.*:

Michael Bonasso  
Flaherty Sensbaugh Bonasso PLLC  
P.O. Box 3843  
Charleston, WV 25338-3843  
304-347-4259 phone  
[mbonasso@fsblaw.com](mailto:mbonasso@fsblaw.com)

David B. Thomas  
Guthrie & Thomas PLLC  
500 Lee Street, East, Suite 800  
P.O. Box 3394  
Charleston, WV 25333-3394  
304-345-7250 phone  
[dbthomas@agmtlaw.com](mailto:dbthomas@agmtlaw.com)

Michael Farrell  
Farrell, White & Legg PLLC  
914 Fifth Avenue  
P.O. Box 647  
Huntington, WV 25772  
304-522-9100  
[MJF@farrell3.com](mailto:MJF@farrell3.com)

The responsibilities of Defendants' Co-Liaison Counsel shall be the following:

1. to serve as the recipient for all court orders for and on behalf of all defendants;

2. to coordinate service and filings for all defendants whether presently included or subsequently added;
3. to periodically review the attorney service list on the court's website, promptly communicate necessary revisions to the Clerk and effectuate required revisions in accordance with direction from the Clerk;
4. to receive and distribute pleadings, orders, and motions by overnight courier service and telecopier within two days after receipt, unless such service has been waived, in writing, by a receiving counsel **or is otherwise achieved through CM/ECF**; and
5. to carry out such other duties as the court may order.

**C. Representation of Clients**

All attorneys representing parties to this litigation, regardless of their role in the management structure of the litigation and regardless of this court's designation of Lead and Liaison Counsel, a Plaintiffs' Executive Committee and a Plaintiffs' Steering Committee, continue to bear the responsibility to represent their individual client or clients.

Going forward, the court reiterates its expectation that the lawyers in this complex civil action will devote their best efforts toward cooperation and positive interaction, a course of action that will doubtless lead to the service of their clients' best interests and the fair and orderly disposition of this litigation.

**D. Procedural and Discovery Issues**

A number of procedural and discovery issues were presented to the court as part of the

proposed agenda for the initial hearing including: master complaints, short form complaints and defendants answers thereto, fact sheets, preliminary motions, production of documents and medical records, privilege log protocol, protective orders, preservation of evidence, redaction protocol, ESI protocols, amendment of pleadings, issues as to proper party defendants and service of process issues. The court directed the parties to continue to meet and confer about these important foundational issues and to have proposals pertaining to them at the time of the next scheduled status conference.

Counsel were advised that lead counsel will be required to attend case management conferences and hearings in person. Status conferences will henceforth be scheduled approximately every 45 to 60 days. The date of the next status conference will be forthcoming in a PTO after consultation with lead counsel appointed at the initial hearing.

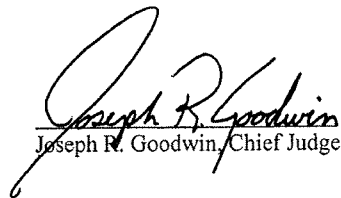
Judge Stanley advised counsel of her general expectations during the discovery process. Counsel was directed to use the orders and protocols previously developed and entered in MDL 2187 *In re C. R. Bard, Inc., Pelvic Repair System Products Liability Litigation* when making proposals on procedural and discovery issues in this MDL and the other pelvic mesh MDLs. The court urged the parties to be creative and devise proposed approaches to discovery which will accomplish discovery of the material facts in an efficient and economical manner.

**E. Coordination with State Pelvic Mesh Cases**

The court advised counsel of its intention to coordinate to the extent possible with the judges and counsel involved in state pelvic mesh cases, especially in states where a majority of the state cases have been filed and coordinated to date.

The court **DIRECTS** the Clerk to file a copy of this order in 2-12-md-2327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2-12-cv-01171. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at [www.wvsc.uscourts.gov](http://www.wvsc.uscourts.gov).

ENTER: April 17, 2012



Joseph R. Goodwin, Chief Judge

Rachel Abrams	<a href="mailto:rabrams@levinsimes.com">rabrams@levinsimes.com</a>	LEVIN SIMES 20th Floor 353 Sacramento Street San Francisco, CA 94111 415/646-7160 415/981-1270 (fax)
David Allen	<a href="mailto:dallen@cohenandmalad.com">dallen@cohenandmalad.com</a>	COHEN & MALLAD One Indiana Square Indianapolis, IN 46204 317/636-6481 317/636-2593 (fax)
Tom Anapol	<a href="mailto:tanapol@anapolschwartz.com">tanapol@anapolschwartz.com</a>	Anapol Schwartz 1710 Spruce Street Philadelphia, PA 19103 215/790-4572 215/875-7707 (fax)
Ben Anderson	<a href="mailto:Ben@andersonlawoffices.net">Ben@andersonlawoffices.net</a>	ANDERSON LAW OFFICES Suite 215 1360 West 9th Street Cleveland, OH 44113 216/589-0256 216/916-0988 (fax)
Richard Arsenault	<a href="mailto:rarsenault@nbalawfirm.com">rarsenault@nbalawfirm.com</a>	NEBLETT BEARD & ARSENAULT 2220 Bonaventure Court Alexandria, LA 71301 318/487-9874 318/561-2591 (fax)
Bryan Aylstock	<a href="mailto:BAylstock@awkolaw.com">BAylstock@awkolaw.com</a>	AYLSTOCK WITKIN KREIS & OVERHOLTZ Suite 200 17 East Main Street Pensacola, FL 32502 850/202-1010 850/916-7449 (fax)
Renee Baggett	<a href="mailto:RBaggett@awkolaw.com">RBaggett@awkolaw.com</a>	AYLSTOCK WITKIN KREIS & OVERHOLTZ Suite 200 17 East Main Street Pensacola, FL 32502 850/202-1010 805/916-7449 (fax)
Lee Balefsky	<a href="mailto:Lee.Balefsky@KlineSpecter.com">Lee.Balefsky@KlineSpecter.com</a>	KLINE & SPECTER The Nineteenth Floor 1525 Locust Street Philadelphia, PA 19102 215/772-1000 215/735-0960 (fax)

Harry Bell	<a href="mailto:hfbell@belllaw.com">hfbell@belllaw.com</a>	THE BELL LAW FIRM P. O. Box 1723 Charleston, WV 25326 304/345-1700 304/345-1715 (fax)
Ed Blizzard	<a href="mailto:EBlizzard@blizzardlaw.com">EBlizzard@blizzardlaw.com</a>	Blizzard, McCarthy & Nabers 440 Louisiana Street Houston TX 77002 713-844-3750
Lisa Blue	<a href="mailto:lblue@baronandblue.com">lblue@baronandblue.com</a>	3811 Turtle Creek Blvd Ste 800 Dallas, TX 75219-4550 214-969-7373
Riley Burnett	<a href="mailto:rburnett@TrialLawFirm.com">rburnett@TrialLawFirm.com</a>	LAW OFFICES OF RILEY L. BURNETT, JR. Suite 1600 440 Louisiana Houston, TX 77002 713/757-1400 713/759-1217 (fax)
Tom Cartmell	<a href="mailto:tcartmell@wagstaffcartmell.com">tcartmell@wagstaffcartmell.com</a>	WAGSTAFF & CARTMELL Suite 300 4740 Grand Avenue Kansas City, MO 64112 816/701-1100 816/531-2372 (fax)
Eric Chaffin	<a href="mailto:chaffin@chaffinluhana.com">chaffin@chaffinluhana.com</a>	CHAFFIN LUHANA 12th Floor 600 Third Avenue New York, NY 10016 347/269-4472 888/499-1123 (fax)
Clayton Clark	<a href="mailto:CClark@TrialLawFirm.com">CClark@TrialLawFirm.com</a>	CLARK LOVE & HUTSON Suite 1600 440 Louisiana Street Houston, TX 77002 713/757-1400 713/759-1217 (fax)
Jayne Conroy	<a href="mailto:JConroy@hanlyconroy.com">JConroy@hanlyconroy.com</a>	HANLY CONROY BIERSTEIN SHERIDAN FISHER & HAYES 112 Madison Avenue New York, NY 10016-7416 212/784-6400 212/213-5949 (fax)
Erin Copeland	<a href="mailto:ecopeland@fhl-law.com">ecopeland@fhl-law.com</a>	FIBICH HAMPTON LEEBRON BRIGGS & JOSEPHSON 1150 Bissonnet Street Houston, TX 77005 713/751-0025 713/751-0030 (fax)

Martin Crump	<a href="mailto:martin.crump@daviscrump.com">martin.crump@daviscrump.com</a>	DAVIS & CRUMP Third Floor 1712 15th Place Gulfport, MS 39501 228/863-6000 228/864-0907 (fax)
A. J. De Bartolomeo	<a href="mailto:aid@GirardGibbs.com">aid@GirardGibbs.com</a>	GIRARD GIBBS 601 California Street, 14th Floor San Francisco, CA 94108 415/981-4800 415/981-4846 (fax)
Amy Eskin	<a href="mailto:aeskin@hershlaw.com">aeskin@hershlaw.com</a>	HERSH & HERSH Suite 2080 601 Van Ness Avenue San Francisco, CA 94102-6396 415/441-5544 415/441-7586 (fax)
Paul Farrell, Jr.	<a href="mailto:paul@Greeneketchum.com">paul@Greeneketchum.com</a>	GREENE KETCHUM BAILEY WALKER FARRELL & TWEEL P. O. Box 2389 Huntington, WV 25724-2389 304/525-9115 304/529-3284 (fax)
Fidelma Fitzpatrick	<a href="mailto:ffitzpatrick@motleyrice.com">ffitzpatrick@motleyrice.com</a>	MOTLEY RICE 321 South Main Street Providence, RI 02903 401/457-7700 401/457-7708 (fax)
Yvonne Flaherty	<a href="mailto:ymflaherty@locklaw.com">ymflaherty@locklaw.com</a>	LOCKRIDGE GRINDAL NAUEN Suite 2200 100 Washington Avenue South Minneapolis, MN 55401 612/339-6900 612/339-0981 (fax)
Pete Flowers	<a href="mailto:pjf@foote-meyers.com">pjf@foote-meyers.com</a>	FOOTE MEYERS MIELKE & FLOWERS Suite 300 3 North Second Street St. Charles, IL 60174 630/232-6333 630/845-8982 (fax)
Carl Frankovitch	<a href="mailto:carln@facslaw.com">carln@facslaw.com</a>	FRANKOVITCH ANETAKIS COLANTONIO & SIMON 337 Penco Road Weirton, WV 26062 304/723-4400 304/723-5892 (fax)



Henry G. Garrard, III	<a href="mailto:hgg@bbgbalaw.com">hgg@bbgbalaw.com</a>	BLASINGAME BURCH GARRARD & ASHLEY P. O. Box 832 Athens, GA 30303 706/354-4000 706/549-3545 (fax)
Michael Goetz	<a href="mailto:mgoetz@forthepeople.com">mgoetz@forthepeople.com</a>	MORGAN & MORGAN 7th Floor 201 North Franklin Street Tampa, FL 33602 813/221-6581 813/223-5402 (fax)
Tim Goss	<a href="mailto:goss39587@aol.com">goss39587@aol.com</a>	FREESE & GOSS Suite 200 3031 Allen Street Dallas, TX 75204 214/761-6610 214/761-6688 (fax)
Jeff Grand	<a href="mailto:Grand@bernlieb.com">Grand@bernlieb.com</a>	BERNSTEIN LIEBHARD 10 East 40th Street, 22nd Floor New York, NY 10016 212/779-1414 212/779-3218 (fax)
Todd Harvey	<a href="mailto:tharvey@bhflegal.com">tharvey@bhflegal.com</a>	Burke Harvey & Frankowski, LLC One Highland Place 2151 Highland Avenue Suite 120 Birmingham, AL 35205 205-930-9091
Stacy Hauer	<a href="mailto:shauer@johnsonbecker.com">shauer@johnsonbecker.com</a>	JOHNSON BECKER Suite 4530 33 South Sixth Street Minneapolis, MN 55402-4123 612/436-1800 612/436-1801 (fax)
Scott Love	<a href="mailto:SLove@TrialLawFirm.com">SLove@TrialLawFirm.com</a>	CLARK LOVE & HUTSON Suite 1600 440 Louisiana Street Houston, TX 77002 713/757-1400 713/759-1217 (fax)
Victoria Maniatis	<a href="mailto:vmaniatis@thesandersfirm.com">vmaniatis@thesandersfirm.com</a>	SANDERS VIENER GROSSMAN 100 Herricks Road Mineola, NY 11501 516/741-5252 516/741-1243 (fax)

Dave Matthews	<a href="mailto:dmatthews@dpmlawfirm.com">dmatthews@dpmlawfirm.com</a>	MATTHEWS & ASSOCIATES 2905 Sackett Street Houston, TX 77098 713/522-5250 713/535-7184 (fax)
Rick Meadow	<a href="mailto:rdm@lanierlawfirm.com">rdm@lanierlawfirm.com</a>	THE LANIER LAW FIRM Sixth Floor Tower 56 126 East 56th Street New York, NY 10022 212/421-2800 212/421-2878 (fax)
Karen Menzies	<a href="mailto:kbmenzies@rcrlaw.net">kbmenzies@rcrlaw.net</a>	ROBINSON CALCAGNIE ROBINSON SHAPIRO DAVIS 19 Corporate Plaza Drive Newport Beach, CA 92660 949/720-1288 949/720-1292 (fax)
Mike Miller	<a href="mailto:MMiller@millerfirmllc.com">MMiller@millerfirmllc.com</a>	Michael J. Miller, Esquire The Miller Firm LLC 108 Railroad Avenue Orange, VA 22960
Doug Monsour	<a href="mailto:Doug@monsourlawfirm.com">Doug@monsourlawfirm.com</a>	THE MONSOUR LAW FIRM P. O. Drawer 4209 Longview, TX 75601 903/758-5757 903/230-5010 (fax) <a href="mailto:doug@monsourlawfirm.com">doug@monsourlawfirm.com</a>
Mark Mueller	<a href="mailto:mark@muellerlaw.com">mark@muellerlaw.com</a>	MUELLER LAW 404 West 7th Street Austin, TX 78701 512/478-1236 512/478-1473 (fax)
Dianne Nast	<a href="mailto:dnast@rodanast.com">dnast@rodanast.com</a>	RODANAST 801 Estelle Drive Lancaster, PA 17601 717/892-3000 717/892-1200 (fax)
Leigh O'Dell	<a href="mailto:leigh.odell@beasleyallen.com">leigh.odell@beasleyallen.com</a>	BEASLEY ALLEN CROW METHVIN PORTIS & MILES P. O. Box 4160 Montgomery, AL 36103-4160 334/269-2343 334/954-7555 (fax)
Alyson Oliver	<a href="mailto:aoliver@oliverlg.com">aoliver@oliverlg.com</a>	OLIVER LAW GROUP Suite 200 950 W. University Drive Rochester, MI 48307 248/327-6556 248/436-3385 (fax)

J A Osborne	<a href="mailto:JAOsborne@Babbitt-Johnson.com">JAOsborne@Babbitt-Johnson.com</a>	BABBITT JOHNSON OSBORNE & LE CLAINCHE Suite 100 1641 Worthington Road West Palm Beach, FL 33409 561/684-2500 561/684-6308 (fax)
Michelle Parfitt	<a href="mailto:mparfitt@ashcraftlaw.com">mparfitt@ashcraftlaw.com</a>	ASHCRAFT & GEREL Suite 650 4900 Seminary Road Alexandria, VA 22311 703/931-5500 703/820-1656 (fax)
Jerry Parker	<a href="mailto:jerry@yourlawyer.com">jerry@yourlawyer.com</a>	PARKER WAICHMAN 6 Harbor Park Drive Port Washington, NY 11050 516/466-6500 516/466-6665 (fax)
Chris Placitella	<a href="mailto:cplacitella@cpirlaw.com">cplacitella@cpirlaw.com</a>	COHEN PLACITELLA & ROTH 127 Maple Avenue Red Bank, NJ 07701 732/747-9003 732/747-9004 (fax)
Derek Potts	<a href="mailto:DPotts@potts-law.com">DPotts@potts-law.com</a>	THE POTTS LAW FIRM 3rd Floor 908 Broadway Kansas City, MO 64105 816/931-2230 816/931-7030 (fax)
Robert Price	<a href="mailto:rprice@levinlaw.com">rprice@levinlaw.com</a>	LEVIN PAPANTONIO THOMAS MITCHELL RAFFERTY & PROCTOR Suite 400 316 South Baylen Street Pensacola, FL 32502 850/435-7075 850/436-6075 (fax)
John Restaino	<a href="mailto:jrestaino@restainolawfirm.com">jrestaino@restainolawfirm.com</a>	THE RESTAINO LAW FIRM 1550 Larimer Street, #527 Denver, CO 80202 720/891-7921 720/221-0449 (fax)
Bill Robins	<a href="mailto:robins@heardrobins.com">robins@heardrobins.com</a>	HEARD ROBINS CLOUD & BLACK Suite 200 300 Paseo de Peralta Santa Fe, NM 87501 505/986-0600 505/986-0632 (fax)

J.R. Rogers	<a href="mailto:jrobertrogers@hotmail.com">jrobertrogers@hotmail.com</a>	LAW OFFICES OF J. ROBERT ROGERS 3972 Teays Valley Road Hurricane, WV 25526 304/757-3809 304/757-2694 (fax)
Robert Salim	<a href="mailto:robertsalim@cp-tel.net">robertsalim@cp-tel.net</a>	LAW OFFICES OF ROBERT L. SALIM 1901 Texas Street Natchitoches, LA 71457 318/352-5999 318/352-5998 (fax)
Joe Saunders	<a href="mailto:joe@saunderslawyers.com">joe@saunderslawyers.com</a>	SAUNDERS & WALKER Suite 200 3491 Gandy Boulevard North Pinellas Park, FL 33781 727/579-4500 727/577-9696 (fax)
Hunter Shkolnik	<a href="mailto:Hunter@napolibern.com">Hunter@napolibern.com</a>	NAPOLI BERN RIPKA SHKOLNIK & ASSOCIATES Suite 7413 350 Fifth Avenue New York, NY 10118 212/267-3700 212/587-0031 (fax)
Fred Thompson, III	<a href="mailto:ftompson@motleyrice.com">ftompson@motleyrice.com</a>	MOTLEY RICE P. O. Box 1792 Mount Pleasant, SC 29465 843/216-9000 843/216-9450 (fax)
Josh B. Wages	<a href="mailto:jbw@bbqbalaw.com">jbw@bbqbalaw.com</a>	BLASINGAME BURCH GARRARD & ASHLEY P. O. Box 832 Athens, GA 30603-0832 706/354-4000 706/549-3545 (fax)
Amiee Wagstaff	<a href="mailto:aimee.wagstaff@ahw-law.com">aimee.wagstaff@ahw-law.com</a>	ANDRUS HOOD & WAGSTAFF 1999 Broadway, Suite 4150 Denver, CO 303/376-6360 303/376-6361 (fax)
Edward A. Wallace	<a href="mailto:EAW@wexlerwallace.com">EAW@wexlerwallace.com</a>	WEXLER WALLACE Suite 3300 55 W Monroe Street Chicago, IL 60603 312/346-2222 312/346-0022 (fax)
Kim Wilson	<a href="mailto:kimwilson@lewis-roberts.com">kimwilson@lewis-roberts.com</a>	LEWIS & ROBERTS P. O. Box 17529 Raleigh, NC 27619 919/981-0191 919/981-0199 (fax)

Laura Yaeger	<a href="mailto:laura_yaeger@fleming-law.com">laura_yaeger@fleming-law.com</a>	FLEMING NOLEN & JEZ Suite 4000 2800 Post Oak Boulevard Houston, TX 77056 713/621-7944 713/621-9638 (fax)
Joe Zonies	<a href="mailto:izonies@rplaw.com">izonies@rplaw.com</a>	REILLY POZNER Suite 1700 1900 16th Street Denver, CO 80202 303/893-6100 303/893-6110 (fax)